IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO.13923 OF 2006

OFFICE NOTES, OFFICE MEMORANDUM OF CORAM, APPEARANCES, COURT'S ORDERS OR DIRECTIONS AND REGISTRAR'S ORDERS	COURT'S OR JUDGES ORDERS

Shri S.S. Patwardhan for the Appellant.
Shri Rohit P.Kurhadkar i/by Sugandha B. Deshmukh for the Respondent Nos.1 and 2.

CORAM : A. S. OKA, J.

DATE : JANUARY 24, 2007.

P.C.:

1. Heard Shri Patwardhan for the Appellant. The Appellant is the original plaintiff. Suit was filed by the Appellant plaintiff for recovery of amount advanced to the Respondents. The Trial Court has passed a decree by directing the Respondents to jointly and severally pay Rs.2,19,653.40/- to the Appellant alongwith future interest at the rate of 17.5% per annum with quarterly rests from the date of filing of suit till realisation. The submission of the learned Advocate for the Appellant is that the interest at the rate of 18% per annum at quarterly rests ought to have been granted by the Trial Court.

2. I have considered the submissions and also perused the impugned judgment. The learned Judge has exercised discretion under section 34 of the Code of Civil Procedure, 1908. The learned Trial Judge relied upon the decision of this court reported in A.I.R. 1996 Bombay Page 293. Considering the fact that the transaction is a commercial transaction, the Trial Court awarded interest at the rate of 17.5% per annum with quarterly rests from the date of filing of the suit. The said rate of interest was the agreed rate of interest. I find no error in the exercise of discretion by the Trial Court. There is no merit in the Appeal. Appeal is accordingly dismissed.

JUDGE